

**BOULDER CITY BALLOT QUESTION NO. 1**  
**A Capital Improvement Fund Question to the**  
**People of Boulder City**

As funds become available within the Capital Improvement Fund, shall the City spend up to \$500,000 annually for the next seven (7) years from the Capital Improvement Fund for City utility infrastructure needs?

**Yes** ..... ☐

**No** ..... ☐

**EXPLANATION**

Section 143 of the Boulder City Charter governs expenditures from Boulder City’s Capital Improvement Fund. Pursuant to that Section, all expenditures from the Capital Improvement Fund must be approved by a simple majority of the votes cast by the registered voters of the city.

A “YES” vote would allow the City to expend not more than \$500,000 annually for the next seven (7) years from the Capital Improvement Fund for the purpose of replacing and/or improving parts of the City’s utility infrastructure where needed to preserve the integrity of the City’s utility services. Such expenditure would only be allowed if funds were available within the Capital Improvement Fund.

A “NO” vote would not allow the City to expend money from the Capital Improvement Fund for the City’s utility infrastructure needs.

**DIGEST**

(NRS 295.230.2(a)(1)(II))

**A. Summary of Existing Laws Related to the Measure Proposed by the Question:**

1. Boulder City Charter Article XV, Real Estate:
  - a. Section 140. Disposition of City-Owned Lands: General Regulations, Subsection A.
  - b. Section 142. Proceeds From Real Estate Transactions
  - c. Section 143. Expenditures From Capital Improvement Fund
2. Boulder City Code Title 2, Chapter 7, Section 2: Limitation on City Debt Obligation

**B. Summary of how the measure proposed by the question:**

1. Adds to Existing Laws – This ballot measure does not add to existing laws. It essentially is giving advance voter approval for the City to use Capital Improvement Funds, if funds are available, in the event improvements or repairs to the City’s utility infrastructure are needed.
2. Changes Existing Laws – This ballot measure does not change existing laws.
3. Repeals Existing Laws – This ballot measure does not repeal any existing laws.

## Effect of the Charter on Capital Improvement Fund disbursements.

It is clear in our Charter since the amendment in 1997, that a sale or other disposition of City-owned lands of more than one acre must be approved by the registered voters of the city at an election held in conjunction and accordance with the election required by Article XV, Section 143 of the Boulder City Charter. (See Boulder City Charter, Article XV, Section 140)

Boulder City Charter Article XV, Section 143, Subsection 1, addresses how expenditures from the Capital Improvement Fund are authorized. Section 143, Subsection 1 states that all expenditures from the Capital Improvement Fund must be approved by a simple majority of the votes cast by the registered voters of the city on a proposition placed before them in an election.

So, taken together, Article XV Sections 140 and 143 tell us that if City-owned land is being sold, it is being done to provide funds for specific expenditures from the Capital Improvement Fund. The sale of City-owned land must always be associated with an expenditure from the Capital Improvement Fund.

However, this does not mean that all expenditures from the Capital Improvement Fund must be connected in some way with a sale of City-owned property. There are other sources that generate revenue to the Capital Improvement Fund. Therefore, it is entirely possible that an expenditure from the Capital Improvement Fund could be approved by the voters that is not related to or connected with a sale of City-owned land.

Nevertheless, every expenditure from the Capital Improvement Fund must be voted on and approved by the registered voters of Boulder City. Passage of this new measure would allow the City Council to use money from the Capital Improvement Fund for City utility infrastructure needs without getting voter approval for each expenditure as long as funds are available and the expenditure is for a utility need.

## Debt Issuance Policy.

The Boulder City Code contains what is known as the City's Debt Issuance Policy. (See Boulder City Code 1-9-12) Among other things, this policy limits long term borrowing or alternative financing techniques to land acquisitions, buildings and other capital facilities, accompanying furniture and fixtures or equipment, capitalized technology assets and movable pieces of equipment, such as fire engines whose costs exceed five hundred thousand dollars (\$500,000.00).

There is another provision in the Municipal Code that limits how much new debt the City can undertake. Boulder City Code Title 2, Chapter 7, Section 2: Limitation on City Debt Obligation:

The city and its agencies and enterprises shall not incur any new debt obligations of one million dollars (\$1,000,000.00) or more, as defined under Nevada Revised Statutes 350.0045 to Nevada Revised Statutes 350.0075, inclusive, without the approval of the electors of Boulder City in a general or special election (Ord.1423, 11-9-2010, eff. 11-9-2010)

This ordinance, enacted by voter initiative, seeks or appears to prevent the City from incurring any new debt, defined as various types of securities in Chapter 350 of the NRS, of a million dollars or more without voter approval.

Likewise, any expenditure from the Capital Improvement Fund requires voter approval.

The City Council is very concerned that this untested initiative ordinance could impede or restrict the Council from carrying out and undertaking important projects for the public benefit, particularly in the area of public utilities improvements and repairs. For example, much of the City's existing electrical utility infrastructure is currently being operated beyond its reasonable useful life. Under this new initiative ordinance, if one of the City's substations were to fail, repairs to the substation could cost well over one million dollars. Those citizens affected by the substation failure (those persons who would now be living without electricity) would arguably have to wait until an election could be held before their power could be restored. Rather than the days it might take to restore the electricity, the process could take months. With this in mind, the City Council has determined to seek other funding sources for such utility repairs and improvements.

One of these sources is the Capital Improvement Fund. Using the example above, by obtaining advance approval for these expenditures from the Capital Improvement Fund, the City will be able to respond to such emergencies more quickly and not require a vote of the people.

### **ARGUMENT FOR PASSAGE**

There is an urgent need for the City to improve our utility infrastructure, especially the electrical utility system. Voter approval of this ballot question will enable the City to take the required action to preserve the integrity of these utility services when there is sufficient money in the Capital Improvement Fund.

In recent months, expert electrical engineers performed an in-depth, high-level evaluation of Boulder City's electrical utility system. Their report, which was confirmed by the Boulder City Electric Utility Administrator, concluded that major components of our City's electrical substations, transformers and transmission system are either aged beyond their useful life, obsolete, unsafe or unreliable. It was also determined that Boulder City has been spending far less than other comparable communities in utility capital improvements.

Recommendations were made for the City to begin as soon as possible to set priorities and implement the needed improvements. The City Council has approved an Electric Utility Capital Improvement Plan, which prioritizes the urgent needs and calls for a phased approach to take the necessary measures as soon as possible, subject to the availability of funding.

If this plan is approved by the voters, together with the land sale measure, the benefits will include greatly enhanced system reliability, a reduction in power outages, significant cost savings and increased safety. If one or both of these two ballot questions fails, it is unlikely the City will be able to accomplish the necessary upgrades in a timely manner unless the City either imposes significant utility rate increases or incurs burdensome debt. Nevertheless, approval of this measure alone would at least allow the City to use money from the Capital Improvement Fund for utility infrastructure needs as funds become available. There will be no adverse financial impact or environmental impact if this measure passes.

Continuation of the excellent quality of life which we enjoy in our unique community can be in jeopardy if we fail to take reasonable and necessary measures to prevent our utility services from deteriorating in a major way. The City has a good plan to remedy the potential crisis which the voters can now approve without further delay.

Approval of Ballot Question No. 1 will help to light the way to our future.

*Submitted by Ballot Question Committee as provided for in NRS 295.217*

### **REBUTTAL TO ARGUMENT FOR PASSAGE**

The passage of this question does not mean the City's utility infrastructure will be repaired immediately. Although the need is urgent, there will not be any available funding from the Capital Improvement Fund until FY 2016. These urgent needs must be addressed now.

The City should not drain the Capital Improvement Fund to upgrade and maintain its utility infrastructure. The costs to upgrade and maintain the City's utilities should be a part of the annual budget rather than counting on voter approval to preserve the integrity and reliability of the City's utilities. Using Capital Improvement Fund money for this purpose simply perpetuates the ongoing problem of the Utility Fund not generating enough revenue to cover both its operational expenses and capital costs. Furthermore, it uses money that should be used for other projects in the General Fund which have limited funding options. The Utility Fund should cover all its costs, including capital. Vote NO on Question No. 1.

*Submitted by the City Clerk as provided for in NRS 295.217*

### **ARGUMENTS AGAINST PASSAGE**

There is no question improvements to the City's utility infrastructure are desperately needed; however, the Capital Improvement Fund should not be the funding source.

The Capital Improvement Fund will not have any funds available for use until FY 2016. When the funds become available, the amount will not be sufficient to cover the costs of the numerous improvements needed. Within the next five years, the estimated costs of replacements and upgrades in the electric utility alone are in excess of \$24 million. This does not include water or sewer. We cannot rely upon the Capital Improvement Fund to pay for these projects. The Capital Improvement Fund receives revenues from land sales and land leases. If these revenues were to decrease or be discontinued, what would be the plan to maintain, update, and improve the City's utility infrastructure?

The Utility Fund is an Enterprise Fund and rates must be designed to recover the utility's cost of service, both operational expenses and capital costs. The City hired a consultant in 2012 to perform a comprehensive electric rate study. The results showed the City was not collecting sufficient revenues to meet costs.

Rather than deplete the Capital Improvement Fund, the City should structure its utility rates to be fair, affordable, and stable. The Capital Improvement Fund should be used to fund General Fund capital such as golf course improvements, renovations or improvements to City buildings, or to fund a new pool.

Vote "NO" on Question No. 1.

*Submitted by the City Clerk as provided for in NRS 295.217*

### **REBUTTAL TO ARGUMENT AGAINST PASSAGE**

It is undisputed that improvements to the City's utility infrastructure are desperately needed. The City Council has approved a good plan to make the essential improvements to the electrical utility system, which is the highest priority. By implementing a phased approach whereby the necessary measures are made year by year, the City can avert the potential crisis through Capital Improvement Fund expenditures if the voters also approve the proposed land sale to raise money for the fund.

As a community, we have three basic choices with regard to the urgent need to upgrade our utility services. First, we can simply live with the existing infrastructure, which is an invitation to disaster. Second, we can pay for the improvements through significantly-higher utility rates, which would create a real burden for many local residents and businesses. Third, we can approve both of these ballot questions to resolve this important issue in a reasonable and affordable manner. Inaction is not an option, and a big boost in power bills is unacceptable.

Please vote yes on Question No. 1.

*Submitted by Ballot Question Committee as provided for in NRS 295.217*

### **FISCAL NOTE**

This will impact the Capital Improvement Fund in the amount of not more than \$500,000 annually for the next seven (7) years and then only if funds are available within the Capital Improvement Fund. This question does not require any expense that will require the levy or imposition of a new tax or fee or the increase of an existing tax or fee.